

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D. C. 20426

February 27, 2004

In Reply Refer To:  
Panhandle Eastern Pipe Line  
Company, LLC  
Docket No. RP04-151-000

Panhandle Eastern Pipe Line Company, LLC  
5444 Westheimer Road  
Houston, Texas 77056-5306

Attention: William W. Grygar, Vice President of Rates and Regulatory Affairs

Reference: Discounted Rate Transactions Based on Published Index Prices

Ladies and Gentlemen:

1. On January 30, 2004, Panhandle Eastern Pipe Line Company, LLC (Panhandle) filed the revised tariff sheets listed in the Appendix to add a seventh type of discount option that offers shippers a fluctuating index-based or formula rate for discounted transactions. For the reasons discussed below, the Commission accepts the proposed tariff sheets to become effective March 1, 2004, as proposed. Acceptance of this filing benefits the public because it promotes transportation and storage service flexibility for Panhandle's customers and stimulates competition in the marketplace.
2. The filing was noticed on February 3, 2004, permitting comments, protests or interventions as provided in Section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. ' 385.214) all timely filed motions to intervene and any motions to intervene out-of-time filed before the date this order issues are granted. Calpine Corporation (Calpine) filed a late protest, which is discussed below.
3. The instant filing revises Panhandle's tariff forms of service agreement (FSAs) for firm and interruptible transportation and storage services to reflect language and specifications recently allowed by the Commission for other pipelines.<sup>1</sup> The tariff

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<sup>1</sup> See Northern Natural Gas Company, (Northern) 105 FERC ¶ 61,299 (2003) and CenterPoint Energy Gas Transmission Company, (CenterPoint) 105 FERC ¶ 61,298 (2003).

changes amend the Rates and Charges provisions under the FSAs for services offered under Rate Schedules FT, EFT, SCT, IT, EIT, IOS, IIOS, WS, IWS, PS, FS, LFT, GPS, HFT, and DVS. Specifically, the instant filing adds a new category of discounted rates based on:

published index prices for specific receipt or delivery points, or other agreed upon pricing reference points for price determination. Such discounted rate may be based on the published index price point differential or arrived at by formula. Any service agreement containing an index based discount will identify what rate component is discounted. . . .

4. Panhandle also revises the Rates and Charges provisions that relate to firm discounted rate transactions. This revised language provides that Panhandle will calculate the index price differential rate formula to state a rate per unit of contract demand. We find this language ensures that Panhandle will bill shippers the discounted reservation charge based on the shipper's contract demand, not on the shipper's throughput.

5. Calpine interprets Panhandle's proposal as applying only to primary pipeline capacity sold directly by the pipeline and not to capacity releases by replacement shippers. Calpine contends that, as a result, the secondary market will "suffer a significant competitive disadvantage." Calpine requests that the Commission require Panhandle to modify its General Terms and Conditions (GT&C) and FSAs, such that "capacity release transactions can be discounted on gas indices in the same manner as proposed by Panhandle for its primary capacity."

6. Under Commission policy, the pipeline does not establish the reservation charge paid by the replacement shipper in a capacity release. Rather, the reservation charge paid by a replacement shipper is established pursuant to (1) prearranged deals between the releasing shipper and the replacement shipper and/or (2) competitive bidding with the winning bid chosen based upon a bid evaluation method chosen by the releasing shipper.<sup>2</sup> Accordingly, there is no reason for tariff language governing the type of discounts the pipeline may offer to refer to capacity release transactions. However, since capacity releases compete with the pipeline's sale of its primary capacity, the releasing shipper should be free to offer the same type of pricing arrangements that the pipeline offers. Therefore, at least where the pipeline offers discounts based on gas price indices, the provisions in the GT&C of the pipeline's tariff governing the releasing shipper's posting of capacity for bidding and negotiation of prearranged deals should not prevent the releasing shipper from offering the same type of pricing in a capacity release. Our review

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<sup>2</sup> El Paso Natural Gas Co., 62 FERC ¶ 61,311 at 62,990-91 (1993). Tenaska Marketing Ventures v. Northern Border Pipeline Co., 99 FERC ¶ 61,182 at 61,709 (2002).

of Panhandle's tariff, in particular the capacity release provisions at GT&C Section 15 and the related FSA, shows no language barring releasing shippers from offering rates to replacement shippers based on gas indices. Further, GT&C Section 15.7 entitles the replacement shipper to all of the rights under the applicable service agreement. Consequently, the service agreement, as revised by the instant filing to include discounted rates based on index prices, may apply to a replacement shipper. Therefore, we find Calpine's protest without merit and Panhandle's proposal consistent with our precedent (e.g., Northern). For this reason, we accept the proposed tariff sheets effective March 1, 2004.

By direction of the Commission. Commissioner Kelly not participating.

Linda Mitry,  
Acting Secretary.

cc: All Parties

APPENDIX

**Panhandle Eastern Pipe Line Company, LLC  
FERC Gas Tariff, Second Revised Volume No. 1**

*Tariff Sheets effective March 1, 2004:*

First Revised Sheet No. 502  
First Revised Sheet No. 503  
First Revised Sheet No. 517  
First Revised Sheet No. 518  
First Revised Sheet No. 532  
First Revised Sheet No. 545  
First Revised Sheet No. 546  
First Revised Sheet No. 558  
First Revised Sheet No. 559  
First Revised Sheet No. 571  
First Revised Sheet No. 572  
First Revised Sheet No. 579  
First Revised Sheet No. 585  
First Revised Sheet No. 586  
First Revised Sheet No. 593  
First Revised Sheet No. 601  
First Revised Sheet No. 602  
First Revised Sheet No. 638  
First Revised Sheet No. 639  
First Revised Sheet No. 646  
First Revised Sheet No. 647  
First Revised Sheet No. 660  
First Revised Sheet No. 661  
First Revised Sheet No. 676  
First Revised Sheet No. 677  
First Revised Sheet No. 691  
Original Sheet No. 691A